

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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In the Matter of)
)
 End User Common Line)
 Charges)

CC Docket No. 95-72

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

**JOINT REPLY COMMENTS OF AMERICA ONLINE INCORPORATED,
 COMPUERVE INCORPORATED, AND GE INFORMATION SERVICES, INC.**

America Online Incorporated, CompuServe Incorporated, and GE Information Services, Inc. ("Joint Parties"), by their undersigned attorneys, hereby submit these reply comments in the above-referenced proceeding. As explained below, the record established by the initial comments provides overwhelming support for the position of the Joint Parties that the Federal Communications Commission should apply only one Subscriber Line Charge ("SLC") to services, such as Integrated Services Digital Network ("ISDN"), that enable the derivation of multiple voice-grade equivalent channels from a single telephone line or other communications facility.

I. BACKGROUND

On June 29, 1995, over 30 entities filed comments in response to the Notice of Proposed Rulemaking ("NPRM").^{1/} In addition to the Joint Parties, these entities included local exchange carriers ("LECs"), interexchange carriers, industry

^{1/} In the Matter of End User Common Line Charges, CC Docket 95-72, Notice of Proposed Rulemaking, FCC 95-212, released May 30, 1995.

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trade associations, and state regulatory commissions. Not a single one of these entities expressed support for the Commission's current (presently suspended for enforcement purposes) interpretation of its access charge rules, referred to in the NPRM as the per derived channel approach, that requires the application of one SLC to each channel derived from ISDN and similar services.^{2/} Moreover, with only a few exceptions, the comments provide overwhelming support for what the Commission referred to as the per facility approach -- the application of only one SLC to each local loop or T1 facility used in the provision of ISDN and similar services regardless of the number of channels derived therefrom.^{3/} Thus, the Joint Parties again urge the Commission to adopt the per facility approach.

II. DISCUSSION

A. The Record Established In This Proceeding Clearly Demonstrates That The Commission Should Adopt The Per Facility Approach Outlined In The NPRM

As explained in the initial comments of the Joint Parties and others, ISDN represents a currently available technology that, if and when widely deployed, will enable residential and business consumers to obtain high-speed, high-quality, digital access to advanced information services such as the Internet and other online interactive services.^{4/} The record established in this proceeding demonstrates that widespread deployment and use

^{2/} NPRM at 14.

^{3/} NPRM at 11-12.

^{4/} See, e.g., Joint Parties Comments at 3.

of ISDN would benefit residential and business consumers by enhancing significantly their access to innovative information services, and that it also would benefit the U.S. economy and advance the Administration's National Information Infrastructure initiative.^{5/} Because they acknowledge the price sensitivity of consumers at this stage of development of the information services marketplace,^{6/} none of the commentators support adoption of the per derived channel approach. In fact, with a few exceptions, most of the commentators support adoption of the per facility approach recommended by the Joint Parties.^{7/}

^{5/} See, e.g., Joint Parties Comments at 7-12.

^{6/} Of course, SLCs are only one component of the overall price that residential and business consumers pay for ISDN service. The state commissions have jurisdiction over the intrastate portion of the service, and the actions of the states with regard to pricing of ISDN usage also will be very important in determining the extent to which the service becomes more widely available. As the Center for Democracy and Technology ("CDT") notes, California, Massachusetts, and Tennessee each have adopted a marginal cost pricing structure for ISDN. CDT Comments at 9, n. 10. The Commission's action in this proceeding will send an important message to the states concerning the public interest objectives in appropriately pricing information infrastructure services such as ISDN, and the Joint Parties urge the Commission and the states to cooperate to promote the widespread deployment and use of these services.

^{7/} See, e.g., MCI Comments at 3; BellSouth Comments at 4; PacBell Comments at 4; Southwestern Bell Comments at 3; NYNEX Comments at 9-13; Ameritech Comments at 2; Rochester Telephone Company Comments at 2; Northern Arkansas Telephone Company Comments at 2; USTA Comments at 2; National Telephone Cooperative Association ("NTCA") Comments at 2; Rural Telephone Coalition ("RTC") Comments at 3; Tennessee Public Service Commission ("TPSC") Comments at 3; American Petroleum Institute ("API") Comments at 3; Tele-Communications Association Comments at 1; CDT Comments at 9; Time Warner Communications Holdings ("TW") Comments at 4; Communications Managers Association Comments at 1.

The comments also demonstrate that adoption of the per facility approach is necessary because application of more than one SLC to a single local loop or T1 facility used to provide derived channel services would over-recover the non-traffic sensitive ("NTS") costs properly assignable to those facilities.^{8/} SLCs are intended to recover a portion of the costs associated with the common line -- the local loop used to connect customer premises to LEC end offices -- and the cost of the local loop does not vary with the number of derived channels.^{9/} The provision of ISDN does not require any modification to the underlying local loop or T1 facilities, but rather involves relatively inexpensive upgrades, the installation of ISDN line cards, to LEC switching equipment.^{10/} For this reason, there is no cost-based justification for imposing a SLC on each channel derived from ISDN, and to impose more than one

^{8/} Joint Parties Comments at 12, n. 28; USTA Comments at 10-11; NTCA Comments at 1-2; RTC Comments at 3; PacBell Comments at 4-5; Southwestern Bell Comments at 9; NYNEX Comments at 9; BellSouth Comments at 3-4; Ameritech Comments at 2; Cincinnati Bell Telephone Company ("CBT") Comments at 5; Rochester Comments at 3; MCI Comments at 3; TPSC Comments at 2-3; TW Comments at 4.

^{9/} Rochester Comments at 3 ("[T]he common line costs associated with deploying an ordinary [local loop] are basically the same for an ISDN-equipped line as for one that is not so equipped."); see also Southwestern Bell Comments at 9.

^{10/} According to BellSouth, "the multiple connections that the end users can obtain through ISDN are not derived through adding equipment to the loop facilities, but rather through different line cards that are part of the switch." BellSouth Comments at 3; see also PacBell Comments at 4-5. These costs appear to be minimal and should be recovered through the local switching rate element, if at all. See, e.g., BellSouth Comments at 5.

SLC per local loop or T1 facility would be inconsistent with cost-causational principles.^{11/}

B. The Commission Should Reject The Alternative Methods Of Applying SLCs Or Imposing Surcharges On ISDN And Other Derived Channel Services Proffered By A Few Commentors

As mentioned above, none of the commentors support adoption of the per derived channel approach, but a few commentors do recommend various alternatives to the per facility approach that have the effect of increasing the overall charges to end users of ISDN and other derived channel technologies. Generally, these commentors assume that adoption of the per facility approach would put upward pressure on carrier common line ("CCL") charges and that some additional method of generating revenue, such as application of more than one SLC per facility,^{12/} increases in the amount of the residential and multiline business SLCs,^{13/} or imposition of a monthly surcharge on top of the current SLC,^{14/} would be needed to avoid this result. Of these commentors, however, only US West even purports to show that its proposal relates to cost-causation, and its claim is contradicted by the comments of the other Bell Operating Companies ("BOCs") and a number of independent LECs.

^{11/} See, e.g., Rochester Comments at 3.

^{12/} US West Comments at 4-5; AT&T Comments at 8; Public Utility Commission of Texas Comments at 5-7.

^{13/} Sprint Comments at 3-5; CBT Comments at 3-4.

^{14/} Bell Atlantic Comments at 4-5.

US West recommends that the Commission adopt a method of applying SLCs to derived channel services based on a ratio of the average NTS cost of providing derived channel services to the average cost of providing non-derived channel services. US West claims that, by using this method of calculating SLCs, one SLC would be imposed on ordinary subscriber loop-based derived channel services and 11 SLCs would be imposed on T1-based derived channel services such as PRI ISDN. However, US West's assertions are directly contradicted by a multitude of other comments, including those of every other BOC and numerous independent LECs, that demonstrate that the cost of a local loop or T1 facility is the same regardless of the number of channels derived therefrom.^{15/} It is difficult to understand how the cost to US West of providing ISDN could differ dramatically from that of the other carriers.

As mentioned above, a few commentators other than US West also urge adoption of an alternative to the per facility approach, but unlike US West, these commentators do not really even assert that their proposals are cost-justified. For instance, AT&T recommends that the Commission apply one SLC to BRI ISDN, accompanied by a \$.25 increase in the monthly SLC applicable to residential consumers and single line businesses, and one SLC to every channel derived using PRI ISDN. AT&T says that this method of calculating SLCs would promote BRI ISDN usage while offsetting "the reduction in SLC revenues resulting from charging a single

^{15/} See notes 8 and 9 supra and accompanying text.

SLC to current BRI customers . . .^{16/} No evidence, however, is presented to support the assertion that anything more than one SLC needs to be applied to PRI ISDN, or that an increase in the residential and single line business SLC is needed, in order to recover the cost of that service. Rather, AT&T's assertion appears to be based on two erroneous assumptions relating to the proportion of revenues currently being recovered by SLCs versus CCL charges: (1) that all LECs currently are applying SLCs on a per derived channel basis; and (2) that the amount of SLC revenue generated from ISDN and other derived channel services already is substantial. Relying on these assumptions, AT&T asserts that the per facility approach would result in a SLC shortfall and possible CCL charge increases.^{17/}

First, AT&T's assumption that LECs currently are applying SLCs on a per derived channel basis is incorrect. Most LECs presently are applying SLCs on a per facility basis and, therefore, adoption of the per facility approach now would not decrease SLC revenues.^{18/} Second, existing use of ISDN and other derived channel services currently is sufficiently limited that, even if all SLC revenues currently being recovered from users of these services were to be eliminated, the impact on CCL

^{16/} AT&T Comments at 8.

^{17/} AT&T Comments at 8-10.

^{18/} See, e.g., BellSouth Comments at 6 ("[V]irtually no LEC has been assessing multiple SLCs on ISDN.").

charges would be de minimis.^{19/} Finally, AT&T's assumptions ignore the fact that, by keeping the price of ISDN and other derived channel services as low as possible, adoption of the per facility approach is likely to stimulate usage and produce sufficient CCL revenues to avoid the need for increases in CCL charges.^{20/} Thus, despite AT&T's contentions to the contrary, the record established in this proceeding demonstrates that adoption of the per facility approach is unlikely to produce CCL charge increases.

The primary purpose of AT&T's comments seems to be an attempt to use this proceeding to advocate an increase, relative to present levels, in the amount of NTS local loop costs currently being recovered from SLCs vis-a-vis CCL charges. Such a reapportionment of the relative revenue responsibility of SLCs and CCL charges for common line cost recovery, however, clearly is outside the scope of this proceeding and would delay resolution of the much narrower, but very important, issue raised in this proceeding.

Other commentators also seem more interested in using this proceeding to increase the relative amount of NTS costs recovered from SLCs as opposed to CCL charges. Sprint puts forward various proposals that would have the effect of increasing SLC charges

^{19/} See, e.g., USTA Comments at 12 ("ISDN subscribership is so low that any potential negative effects on the [CCL charge] will be slight."); see also Ameritech Comments at 2-3; MCI Comments at 1-2; Sprint Comments at 4, n. 7; TW Comments at 4.

^{20/} See, e.g., MCI Comments at 3; see also USTA Comments at 12-13; API Comments at 6.

end users pay for derived channel services.^{21/} Bell Atlantic and CBT also recommend alternatives to the per facility approach. Bell Atlantic urges the Commission to allow LECs to apply as few as one SLC per facility to derived channel services, but also asks the Commission to allow the imposition of a surcharge of up to \$.50 per month on each voice-grade equivalent channel derived using such services.^{22/} Similarly, CBT recommends that the Commission allow the imposition of as few as one SLC per facility on derived channel services, but suggests that the amount of each SLC be increased by up to \$.25 per month.^{23/}

Sprint, Bell Atlantic, and CBT, like AT&T, do not attempt to show that the per facility approach, without any additional revenue recovery from end users, is inconsistent with cost-causational principles. Rather, these comments are based only on vague references concerning the need to guard against even the possibility of an increase in CCL charges.^{24/} The Commission should reject the suggestions of these commentators and adopt the per facility approach, without allowing any new surcharges or changes in the level of the current SLCs that would have the effect of increasing charges to end users for using ISDN or similar derived channel services.

^{21/} Sprint Comments at 4.

^{22/} Bell Atlantic Comments at 4-5.

^{23/} CBT Comments at 3-5.

^{24/} Bell Atlantic Comments at 3-4; CBT Comments at 4.

III. CONCLUSION

For the foregoing reasons, as well as those presented in their earlier comments, the Joint Parties again urge the Commission to adopt the per facility approach.

Respectfully submitted,

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I, Teresa A. Pumphrey, hereby certify that copies of the foregoing Joint Reply Comments of America Online Incorporated, CompuServe Incorporated, and GE Information Services, Inc., have been served by hand or via first-class United States mail, postage prepaid, this 14th day of July 1995 on the following:

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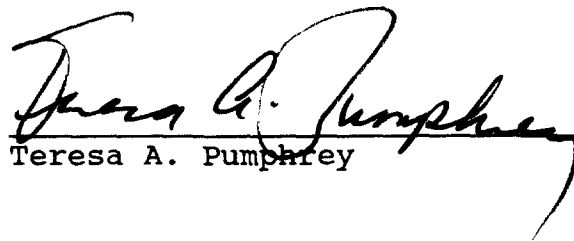
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